

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18021 of Peter and Leslie Shields, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, to allow a two story addition to an existing one-family detached dwelling, not meeting the side yard requirements (section 405), in the R-1-B District at premises 4719 Butterworth Place, N.W. (Square 1536, Lot 834).

HEARING DATE: January 19, 2010
DECISION DATES: February 9¹ and 16, 2010

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4).

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 3E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3E, which is automatically a party to this application. ANC 3E submitted a resolution in support² of the application, having

¹ The Special Public Meeting that was to take place on February 9, 2010 was postponed to February 16, 2010. No deliberations occurred on February 9, 2010.

² The ANC conditioned their support on the Applicants providing “the BZA with meaningful assurances that in the process of constructing the Proposed Addition the Applicants will take steps to ensure that water from the Property does not runoff into the alley.” In their report they alluded to one of the objections from a neighboring property owner of concerns relating to water in the alley. That neighbor testified in opposition to the project at the hearing. The Board completed public testimony on January 19, 2010, but requested additional information to supplement the record. In response to the Board’s request, the Applicants submitted revised plans and a narrative, dated January 26, 2010. The revised site plan addressed the stormwater drainage issue as well as gave a description of the Applicants’ efforts to seek a solution from the City to repair the public alley pavement to address the water problem. (Exhibit 33). By an email submitted to the record, the opposing neighbor indicated his support of the Applicants’ revised plans with respect to the water remediation plan. (Exhibit 34).

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approved the resolution by unanimous vote at a regularly-scheduled, duly-noticed meeting at which a quorum was present. (Exhibits 29 and 32). OP submitted a timely report recommending approval of the application. (Exhibit 24). An email from a neighbor and a petition in support, signed by seven neighbors, were submitted for the record. (Exhibit 23). One neighbor testified in opposition to the application and two other neighbors submitted a letter in opposition. (Exhibit 24).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223, not meeting the side yard requirement of section 405. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

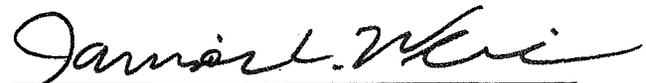
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 8 – Plans and Exhibit 33 – Revised Site Plan) be **GRANTED**.

VOTE: 4-0-1 (Marc D. Loud, Shane L. Dettman, Meridith H. Moldenhauer, Michael G. Turnbull to APPROVE. One Board member not participating, nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

ATTESTED BY:



JAMISON L. WEINBAUM

Director, Office of Zoning

FEB 22 2010

FINAL DATE OF ORDER: _____

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PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



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As Director of the Office of Zoning, I hereby certify and attest that on FEB 22 2010, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Chairperson
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ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning